

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
To Revise Its Electric Marginal Costs, Revenue
Allocation, and Rate Design.

(U 39 M)

Application 04-06-024
(Filed June 17, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING INTERVENTION OF SIERRAPINE LTD.
AND CONTINGENT ADDING OF ISSUE**

On April 19, 2005, SierraPine Ltd. (SierraPine) filed two motions:
(1) Motion to Intervene and (2) Motion to Contingently Add Issue. No responses
were filed. The motions are granted.

1. Background

SierraPine states it is a family-owned producer of a variety of composite
panel products. SierraPine operates nine plants, three of which are located in
California. One facility is in Rocklin, California.

According to SierraPine, Pub. Util. Code § 367.3 (added by Assembly
Bill 1284, effective August 11, 2003) provides that a qualifying direct transaction
customer may apply to the Commission for a waiver of the Direct Access Cost
Responsibility Surcharge (DA CRS). SierraPine states that it was the only
qualifying customer to apply for this waiver, and the application for waiver of
the entire DA CRS for the Rocklin facility was granted by the Commission in
Decision (D.) 03-09-019. As a result, no portion of the DA CRS was collected by
Pacific Gas and Electric Company (PG&E) from the Rocklin facility, according to
SierraPine.

In 2004, SierraPine reports that PG&E was authorized to begin collecting a Regulatory Asset Charge (RAC) from ratepayers. SierraPine says the RAC is designed to recover costs related to a regulatory asset established in connection with PG&E's reorganization pursuant to its Chapter 11 bankruptcy proceeding. The RAC was included as a component of the DA CRS and, due to the statutory waiver, SierraPine's Rocklin facility did not pay any of the RAC, according to SierraPine.

SierraPine further reports that the Commission granted PG&E authority to issue Energy Recovery Bonds to refinance the regulatory asset and reduce costs to ratepayers. (D.04-11-015.) The Commission also authorized PG&E to assess an Energy Cost Recovery Amount (ECRA) charge to recover refinancing costs, according to SierraPine. SierraPine says the ECRA charge replaced the RAC and, like the RAC, was included as a component of the DA CRS. Further, SierraPine says that:

"D.04-11-015, however, also noted that 'those customers that are exempt from the new surcharges pursuant to SB [Senate Bill] 772 or other Commission decisions' would not be required to pay the ECRA Charge. [D.]04-11-015 at 2. SierraPine is exempt from the ECRA Charge pursuant to Section 367.3 and D.03-09-019." (Motion to Intervene, p. 2.)

SierraPine states that PG&E informed SierraPine in March 2005 that PG&E intends to pursue collection of the ECRA charge from SierraPine. SierraPine filed a protest to PG&E's Advice Letter implementing the ECRA charge, and in its protest requests that the Commission clarify SierraPine is exempt from such charge. In PG&E's response to the protest, PG&E noted, according to SierraPine, that there are similarities between SierraPine's exemption claim and one made by the Bay Area Rapid Transit (BART). BART recently moved to intervene in this matter and add BART's issue of its statutory exemption from certain charges.

The motions were granted. According to SierraPine, PG&E's response advised that SierraPine should raise its exemption issue in a similar manner.

SierraPine believes the appropriate resolution of this matter is by granting its protest to PG&E's Advice Letter. In the event the matter is not resolved there, however, SierraPine moves to intervene and add its exemption issue here. SierraPine believes resolution of its exemption claim only requires interpretation of Pub. Util. Code § 367.3 and prior Commission decisions, rendering testimony and hearing on the issue unnecessary. SierraPine's intervention and contingent addition of this issue will not unduly broaden the scope or prejudice any party, according to SierraPine.

2. Discussion

SierraPine's motions are unopposed. No reasons are known to deny the motions. It appears granting the motions will not unduly broaden the scope or prejudice any party. The motions should be granted.

SierraPine states the issue as "whether SierraPine is exempt from Energy Cost Recovery Amount (ECRA) charges pursuant to Public Utilities Code § 367.3 and D.03-09-019." (Motion to Contingently Add Issue, p. 1.) This issue should be added. Similar to adding BART's exemption issue as a revenue allocation item, SierraPine's issue should be added as issue 2.7.

SierraPine asserts that evidentiary hearing is unnecessary. No party argues otherwise. Therefore, the schedule should not be adjusted to include the serving of proposed testimony on this issue. Rather, it is expected that parties will address this issue in briefs. If the issue is resolved by the Commission in a Resolution regarding the Advice Letter before briefs are filed here, parties need not—and should not—address the issue in this proceeding absent direction otherwise.

IT IS RULED that:

1. The April 19, 2005 motion of SierraPine Ltd. (SierraPine) to intervene is granted. The service list shall be modified to include in the appearance category:

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2. The April 19, 2005 motion of SierraPine to contingently add an issue is granted. Issue 2.7 is added:

2.7. Whether SierraPine is exempt from Energy Cost Recovery Amount (ECRA) charges pursuant to Pub. Util. Code § 367.3 and D.03-09-019.

Dated April 28, 2005, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Administrative Law Judge's Ruling Granting Intervention of SierraPine Ltd. and Contingent Adding of Issue in Application 04-06-024 by using the following service:

☒ E-Mail Service: sending the entire document as an attachment to all known parties of record who have provided electronic mail addresses.

☒ U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Dated April 28, 2005, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.